

June 24, 2016

Ex Parte Notice

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Connect America Fund*, WC Docket No. 10-90; *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208

Dear Ms. Dortch:

On June 22, 2016, John Nakahata spoke with Nicholas Degani, Legal Advisor to Commissioner Pai. This letter summarizes and supplements the conversation with Mr. Degani regarding the Alaska Plan submitted by the Alaska Telephone Association.

The Alaska Plan is an integrated proposal to stabilize and better target high cost universal service support for both rate-of-return ILECs and for Alaska's mobile wireless CETCs – all of which are affiliated with an Alaska rate-of-return ILEC. As all are aware, Alaska is a unique environment for deploying, operating and maintaining telecommunications networks, with extremes of distance and climate, extremely isolated and small rural population groups, a lack of supporting infrastructure such as power grids, and a very constrained construction season. The Alaska Plan is based upon these unique factors and the fact that – as documented by the Brattle Group model – the costs of deploying, operating and maintaining modern LTE networks in rural Alaska far outstrips anticipated support.¹ Thus, the plan focuses on redeploying and optimizing the use of high cost support flowing to Alaska, rather than reducing that support. Reducing support would simply mean that fewer areas can be upgraded and that Alaska as a whole, and rural Alaska in particular, would continue to fall further behind the telecommunications services available in the rest of the country.

The Alaska Plan was also framed based on the precedent of the option provided for price cap ILECs in non-contiguous areas to elect to maintain high cost support at 2011 levels. That option was provided because the Commission was not confident that its cost models could accurately reflect the unique conditions present in Alaska and other non-contiguous areas. In

¹ See Letter from John T. Nakahata, Counsel to General Communication, Inc., to Marlene H. Dortch, Secretary, FCC, at 4 & n.13, WC Docket No. 10-90, WT Docket No. 10-208 (filed May 3, 2016) (“GCI May 3, 2016 Ex Parte”) (noting that the present value of the total incremental cost to bring 4G LTE to all remote Alaskans served by 2G or 3G technology is \$1,284,357,506, but the present value of 10 years of frozen support is only \$506,303,898).

return for support frozen at 2011 levels, the price cap carriers are required to meet deployment and service requirements established with the Commission.² Significantly, that support is not reduced for areas in which the price cap ILEC is overlapped by an unsubsidized provider (or a provider that will become unsubsidized) offering the targeted level of service, but the price cap carrier can use the frozen support to support deployment in other areas that it serves. We believe this continues to be the right approach as an option for Alaska, and that it should not be limited to price cap carriers.

For Alaska's rate-of-return carriers that elect the Alaska Plan, the Alaska Plan uses 2011 support levels as the *starting point* for determining distributions to those carriers. Use of 2011 levels is consistent with the precedent of frozen support for price cap carriers serving non-contiguous areas. However, the support that would actually be distributed is below 2011 levels because of (1) the \$3000 per line annual support cap and (2) a downward adjustment to reflect the corporate operations expense limits on ICLS support calculations. By calculating support in this manner, the Alaska Plan eliminates the impact of the Quantile Regression Analysis adjustments, which contained a flawed "Alaska factor" that actually reduced support to Alaska rate-of-return carriers.

It is important to note, however, that the use of these adjusted 2011 support levels for Alaska's rate-of-return carriers does not mean that support is drawn away from other rate-of-return carriers. To prevent these changes from affecting other rate-of-return carriers, the difference between the adjusted 2011 support levels provided to electing Alaska rate-of-return carriers is funded through reductions in CETC support presently flowing to non-remote areas of Alaska.³

The total support flowing to Alaska CETCs, even ignoring the amounts transferred to Alaska rate-of-return support, have been reduced through the implementation of the 40% reduction below 2011 levels for carriers or areas not part of the Remote Alaska mechanism.⁴

With respect to the approximately \$78 million per year in Remote Alaska support, which was established in the 2011 *Transformation Order*, the Alaska Plan simplifies and optimizes the

² *Connect America Fund et al.*, Report and Order, FCC 14-190, 29 FCC Rcd. 15,644, 15,662 ¶ 46 (2014); *Connect America Fund et al.*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54, 29 FCC Rcd. 7051, 7118 ¶ 201 (2014) ("April 2014 FNPRM").

³ See Alaska Plan Proposed Rule Amendments as of June 16, 2016 § 54.317(g)(4)(B), *attached to* Letter from Christine O'Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 10-208 (filed June 16, 2016) ("Proposed Rules").

⁴ See *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17,663, 17,832 ¶ 519 (2011) ("*Transformation Order*").

distribution of that support going forward. Rather than continuing to collect line counts in order to recalculate the distribution of Remote Alaska support among its existing participating carriers, the Alaska Plan simply freezes the amounts distributed to each provider based on December 2014 distributions,⁵ as proposed in the Commission's *April 2014 FNPRM*.⁶ Notably, this does not change the amount of support distributed through the Remote Alaska mechanism; it simply ends the administrative burden on carriers and USAC of dealing with line counts, which results only in minor adjustments to the relative distribution of that support among Remote Alaska carriers. What changes with respect to the \$78 million distributed through the Remote Alaska support is that the providers receiving such support must meet specific service commitments that will be approved by the Wireless Telecommunications Bureau, and cannot use that support for the deployment, operation or maintenance of mobile wireless service in areas in which a nationwide Tier 1 CMRS provider provides LTE over its own facilities. This strengthens oversight, accountability and, most importantly, the efficacy of this support.

Moreover, just as the Commission in 2011 did not reduce Remote Alaska support to CETCs by the amount of what had previously been categorized for administrative purposes only as Local Switching Support ("LSS") or Safety Net Additive Support, the Alaska Plan also does not do so. Eliminating that support simply because it had once been calculated based on ILEC switching or loop costs would be disruptive and counterproductive without any purpose. Mobile CETC support under the Alaska Plan is targeted to support the delivery of mobile voice and broadband service across rural Alaska – and it is the delivery of that service that is the important public interest objective, not the historical labels applied to the support. Furthermore, with respect to LSS, when the Commission eliminated LSS for ILECs in the *Transformation Order*, it did so because it shifted to supporting ILEC switching costs through CAF intercarrier compensation replacement support.⁷ No such alternative mechanism would exist here to offset the elimination of what is nominally labelled by USAC as LSS. Moreover, as demonstrated by the Brattle Report, the total *incremental* costs of upgrading Alaska's mobile wireless and broadband service far exceeds the total amount of CETC support provided under the Alaska Plan.⁸ Thus, the elimination of LSS for rate-of-return carriers is inapposite to the appropriate treatment of these high cost support dollars for CETCs providing mobile voice and broad service in Remote Alaska under the Alaska Plan.

⁵ This use of December 2014 distribution to freeze the relative apportionment of the Remote Alaska support among CETCs is not inconsistent with the use of 2011 support as the starting point for calculating rate-of-return carrier distributions under the Alaska Plan. For rate-of-return carriers, the 2011 data is used to set the total amount of rate-of-return carrier support for all rate-of-return carrier participants in the Alaska Plan collectively, as opposed to simply allocating a pre-established total amount of support.

⁶ See *April 2014 FNPRM* ¶ 256.

⁷ See *Transformation Order* ¶¶ 255-57.

⁸ See *supra* note 1.

With respect to support not distributed through the Remote Alaska mechanism today, which includes all CETC high cost support received by AT&T in Alaska, the Alaska Plan shifts that support over three years (1) to support wireline broadband deployment by rate-of-return ILECs to the extent that the modified 2011 support levels exceed 2015 levels⁹ and (2) to support deployment to areas of Alaska with no mobile voice or broadband service.¹⁰ Existing support is transitioned, with legacy support phased out and dedicated to the new, specified uses according to a three-step schedule, just as it would have been upon implementation of Mobility Fund Phase II (including Tribal Mobility Fund Phase II) – for which the Alaska Plan is an alternative tailored to the needs of Alaska.

The Alaska Plan does not retarget non-Remote Alaska support to AT&T for its remote areas for three reasons. First, this support was not within the \$78 million Remote Alaska support under the current mechanism. That support is distributed to carriers other than AT&T. To include AT&T would have required adding support that AT&T receives outside of the Remote Alaska mechanism, but which USAC does not differentiate between Anchorage, Fairbanks and Juneau-derived support, and support derived from service to other areas. Second, AT&T never, until recently, expressed any interest in retargeting that support to areas it served, notwithstanding the fact that the Alaska Plan has been before the Commission – with AT&T’s knowledge – since February 20, 2015.¹¹ Notably, it was clear from the initial presentation of the Alaska Plan that AT&T’s Alaska operations were not part of the ten-year proposal for CETC support.¹² Third, AT&T is treated exactly the same as any current recipient of Remote Alaska support that opts not to receive CETC support under the Alaska Plan. Furthermore, nothing in the Alaska Plan bars AT&T from bidding on this support to serve unserved areas.¹³

In response to a question, according to the Form 477 data reported as of December 31, 2014, which is the data the Alaska Plan is keyed to, there are no areas that would receive support (i.e., be eligible for use of Remote Alaska funds to support deployment, operation and maintenance of wireless networks) in which an “unsubsidized competitor” provides 4G LTE service, even if one treats AT&T as an “unsubsidized competitor” for this purpose. As a consequence, excluding areas in which an “unsubsidized competitor” provided 4G LTE service as of December 31, 2014 and excluding areas in which a Tier 1 nationwide CMRS carrier provided 4G LTE service as of December 31, 2014 reach the same result, provided that AT&T is treated as an “unsubsidized competitor.” Use of the Tier 1 nationwide CMRS carrier

⁹ See Proposed Rules §§ 54.306(d), 54.317(g)(4)(B).

¹⁰ See *id.* § 54.317(g)(4).

¹¹ See Letter from Christine O’Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Feb. 20, 2015) (“ATA Feb. 20, 2015 Ex Parte”).

¹² See Consensus Alaska Plan at 2 n.3, *attached to* ATA Feb. 20, 2015 Ex Parte.

¹³ See Letter from Christine O’Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, at 1, WC Docket Nos. 10-90 & 10-208 (filed June 16, 2016).

classification, however, avoids any disputes as to whether AT&T is a “subsidized” or “unsubsidized” competitor, and thus is a preferable way to draft the Alaska Plan implementing rules.

Finally, with respect to areas in which more than one CETC may be able to receive and use mobile wireless CETC support, I explained that in developing the Alaska Plan, the ATA members had concluded that Alaska was not a suitable environment in which to experiment by running the first auction designed to eliminate high cost support recipients, not just to provide supplemental high cost support as was the case for Mobility Fund Phase I, Tribal Mobility Fund Phase I and the Rural Broadband Experiments. Alaska is an extremely diverse and challenging environment for telecommunications deployment. As the Commission has recognized, the average Alaska census block “is more than 50 times the size of the average census block in the other 49 states and the District of Columbia”, and “the large size of census areas poses distinctive challenges in identifying unserved communities and providing service.”¹⁴ In this context, network coverage in part of a Remote Alaska census block is less likely to reflect that the census block is fully served than such partial coverage in other parts of the country, and one CETC may not be in a position to serve the entire census block. As GCI explained in its May 3, 2016 ex parte, were the Commission to hold an auction to eliminate support recipients, it would likely result in loss of service from many of the Alaska CETCs, smaller companies that rely heavily on high cost support to maintain operations and provide mobile services in these challenging areas. Not only could some Remote Alaska consumers lose service given the patchwork quilt of coverage across traditional RLEC study areas, but also the elimination of one provider in a service area may leave customers with unusable devices, and roamers without any service or ability to reach emergency responders if they happen to be relying on the “wrong” air interface. Furthermore, the Alaska plan is a single, interdependent plan, across both its ILEC and CETC components. Every Alaska-based CETC is an affiliate of a rate-of-return ILEC. Providers will make holistic plans – including the wired and wireless pieces – for their specific buildouts. Pulling it apart, such as through an auction, risks the advancements across the board.¹⁵

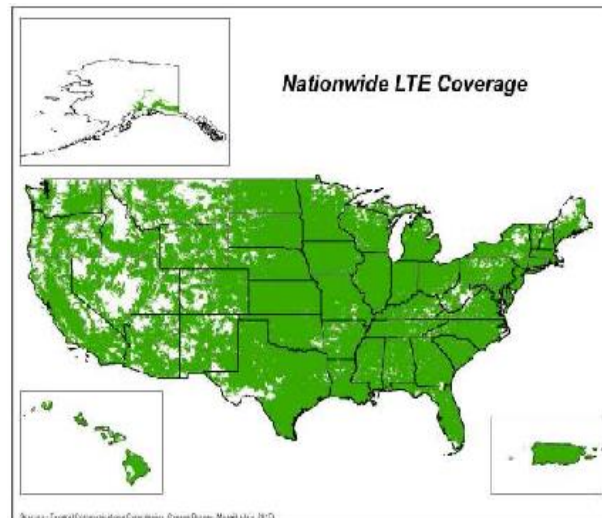
When one sets aside auctions, there is not a clear practical way to eliminate areas of overlap among supported providers. In this case, the overlap among Alaska Plan signatories is relatively minor. The December 2014 Form 477 data reveal no census blocks where multiple Alaska Plan signatories offer LTE. At the 3G service level, the overlap analysis shows approximately 3,100 people living in eligible census blocks served by two Alaska Plan signatories. The overlap analysis also shows that the total population of eligible Census blocks with mobile service of some kind available from more than one Alaska Plan signatory is approximately 33,000. In its proposal for Mobility Fund Phase II, the Commission

¹⁴ *Transformation Order*, 26 FCC Rcd. at 17,738 ¶ 347.

¹⁵ See GCI May 3, 2016 Ex Parte at 7-8.

acknowledged that it could be appropriate to support more than one CETC in an area “if doing so would maximize coverage.”¹⁶

The Alaska Plan is needed precisely because LTE service is extremely limited in Remote Alaska today. The maps as produced for the 18th Annual Mobile Wireless Competition Report show the contrast between LTE coverage nationally, and LTE coverage in Alaska.



FCC, 18th Annual Mobile Wireless Competition Report, Web Appendices (Download feature), wireless.fcc.gov/competition-reports/mobile-wireless/mw-18/report-assets/.



Created from FCC, 18th Annual Mobile Wireless Competition Report, Web Appendices, Appendix I: Maps, Nationwide LTE Coverage, July 2015, wireless.fcc.gov/competition-reports/mobile-wireless/mw-18/report-assets/.

¹⁶ *Transformation Order*, 26 FCC Rcd. at 18,073 ¶ 1136; *see also id.* at 17,779 ¶ 316 (noting that “in certain limited circumstances, the most efficient use of resources may result in small overlaps in supported service”).

Marlene H. Dortch

June 24, 2016

Page 7 of 7

The Alaska Plan, with its integrated rate-of-return ILEC and wireless CETC components, is the most practical way to move forward with universal service reform for Alaska, recognizing Alaska's unique telecommunications deployment and operations environment.

Please do not hesitate to contact us if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Nakahata".

John T. Nakahata

Julie A. Veach

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cc: Stephanie Weiner
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